

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-1997V

UNPUBLISHED

GRETCHEN ZUFALL,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: December 18, 2020

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

Amy A. Senerth, Muller Brazil, LLP, Dresher, PA, for petitioner.

Julia Marter Collison, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On December 28, 2018, Gretchen Zufall filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered left shoulder injuries related to the influenza vaccination (SIRVA) she received on September 26, 2016. Petition at 1. Petitioner further alleges the vaccination was administered in the United States, she experienced the residual effects of this injury for more than six months, and there has been no prior award or settlement of a civil action on her behalf as a result of her condition. Petition at 1, 4-5. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 13, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for her SIRVA. On December 18, 2020, Respondent filed a proffer on

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). This means the decision will be available to anyone with access to the internet. In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

award of compensation ("Proffer") indicating Petitioner should be awarded \$112,204.61. Proffer at 2. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$112,204.61 in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
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GRETCHEN ZUFALL,

Petitioner,

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SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 18-1997V
Chief Special Master Corcoran
ECF

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

On December 28, 2018, Gretchen Zufall (“petitioner”) filed a petition for compensation (“Petition”) under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to 34 (“Vaccine Act” or “Act”), as amended. Petitioner alleges that she suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”) as a result of an influenza (“flu”) vaccine administered to her on September 26, 2016. On July 10, 2020, respondent filed his Vaccine Rule 4(c) report, recommending that compensation be awarded. On July 13, 2020, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation.

I. Items of Compensation

Respondent proffers that petitioner should be awarded \$112,204.61, consisting of \$110,000.00 for past pain and suffering damages, and \$2,204.61 for past unreimbursed expenses. *See 42 U.S.C. § 300aa-15(a).* Petitioner agrees.

II. Form of the Award

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner should be made through a

lump sum payment as described below and requests that the Chief Special Master's decision and the Court's judgment award the following¹: a lump sum payment of \$112,204.61, representing compensation for all elements of economic and noneconomic damages, in the form of a check payable to petitioner, Gretchen Zufall.

III. Summary of Recommended Payments Following Judgment

Lump sum payable to petitioner, Gretchen Zufall: **\$112,204.61**

Respectfully submitted,

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/s/ Julia M. Collison
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Dated: December 18, 2020

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings and future pain and suffering.